

MONDAY, FEBRUARY 2, 2004
FIFTY-FIFTH LEGISLATIVE DAY

CALL TO ORDER

The Senate met at 5:00 p.m., and was called to order by Mr. Speaker Wilder.

PRAYER

The proceedings were opened with prayer by Pastor Leon Edwards of Harvest Fields Baptist Church in Pegram, Tennessee, a guest of Senator Kurita.

PLEDGE OF ALLEGIANCE

Senator Kurita led the Senate in the Pledge of Allegiance to the Flag.

ROLL CALL

The roll call was taken with the following results:

Present 33

Senators present were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--33.

MR. SPEAKER WILDER RELINQUISHES CHAIR

Mr. Speaker Wilder relinquished the Chair to Senator Kyle as Speaker pro tempore.

INTRODUCTION OF BILLS

The Speaker announced that the following bills were filed for introduction and passed first consideration:

Senate Bill No. 3100 by Senator Haynes.

Special License Plates -- Authorizes issuance of Eastern Box Turtle new specialty license plate; allocates 50 percent of funds produced from sale thereof to the wildlife resources fund. Amends TCA Title 55.

Senate Bill No. 3101 by Senators Trail, Cooper, Bryson, Norris and Person.

Criminal Offenses -- Rewrites the offense of communication theft, punishes offense as theft, provides civil remedies and statutory damages, combines present offense of cable television theft. Amends TCA Title 7, Chapter 59 and Title 39, Chapter 14.

Senate Bill No. 3102 by Senator Southerland.

Tort Liability -- Adds skateboarding to list of recreational activities where landowner has limited liability. Amends TCA Title 70, Chapter 7.

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Senate Bill No. 3103 by Senator Williams.

Criminal Offenses -- Creates Class A misdemeanor for scalping tickets to events at facilities where there are in excess of 140,000 permanent seats. Amends TCA Title 39, Chapter 17, Part 11.

Senate Bill No. 3104 by Senators Ketron, Norris, McNally, Williams and Trail.

Education, Higher -- Expands eligibility for legislative internship program to include sophomores at two-year and four-year colleges and universities. Amends TCA Title 49, Chapter 50, Part 6.

Senate Bill No. 3105 by Senator Burks.

Highway Signs -- "Veterans Memorial Highway", U.S. Highway 70 in White County, excluding City of Sparta.

Senate Bill No. 3106 by Senator Burks.

Highway Signs -- "Raymond Shadden Memorial Highway", U.S. Highway 127 from downtown Crossville to Exit 317 on I-40.

Senate Bill No. 3107 by Senator Jackson.

Correctional Programs -- Authorizes TRICOR board to develop policies allowing sale of TRICOR products to department of correction inmates and family members of such inmates. Amends TCA Title 41, Chapter 22.

Senate Bill No. 3108 by Senator Kyle.

Taxes, Exemption -- Allows credit of up to 1 percent of amount of franchise and excise tax due for qualified research expenses which are conducted in Tennessee. Amends TCA Title 67, Chapter 4.

Senate Bill No. 3109 by Senator Kurita.

Utilities, Utility Districts -- Authorizes utility vehicles used in course of official duties of utility to be equipped with and display flashing white or strobe light at front of vehicle while stopped, standing or parked at work or repair site or area. Amends TCA Section 55-9-402.

Senate Bill No. 3110 by Senator Miller.

Gas, Petroleum Products, Volatile Oils -- Enacts the "Tennessee Agricultural Ethanol Production Act of 2004".

Senate Bill No. 3111 by Senator Person.

TennCare -- Prohibits restriction of TennCare recipient access to prescription medicine for treatment of mental illness. Amends TCA Title 63 and Title 71.

Senate Bill No. 3112 by Senator Williams.

Utilities, Utility Districts -- Authorizes boards of commissioners in utility districts in Grainger and Union counties to approve per diem compensation for up to 12 meetings a year for up to \$250 per meeting. Amends TCA Title 7, Chapter 82, Part 3.

Senate Bill No. 3113 by Senator Atchley.

Local Government, General -- Modifies the Municipal Tax Electric System Tax Equivalent Law of 1987 to indicate that the provisions of that part supercede any contrary provisions in private acts, home rule charters, or metropolitan government charters; removes transition provisions that established the base levels for tax equivalent maximums as those paid in fiscal year 1986-1987; removes language validating contracts in effect as of July 1, 1987. Amends TCA Title 7, Chapter 52, Part 3.

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Senate Bill No. 3114 by Senator Williams.

Clerks, Court -- Provides that the county clerk of Jefferson County will continue to serve the court exercising probate jurisdiction in such county and will continue to exercise the same duties such clerk exercised on June 30, 2003. Amends TCA Title 18, Chapter 6, Part 1.

Senate Bill No. 3115 by Senator Cooper.

Emergency Communications Districts -- Allows board of directors to determine emergency telephone service charge to fund 911 service; increases percentage of revenue from commercial mobile radio service charge that goes to districts from 25 to 40 percent; directs TACIR to study 911 system technology and fee structure. Amends TCA Title 7, Chapter 86.

Senate Bill No. 3116 by Senator Burchett.

Criminal Procedure -- Authorizes magistrate, judge of clerk to issue criminal summons instead of warrant of arrest. Amends TCA Section 40-6-215.

Senate Bill No. 3117 by Senator Burchett.

Criminal Procedure -- Extends period of time between issuance of notice to appear from not less than 10 days to not more than 45 days from booking to period of not less than 10 days to not more than 60 days. Amends TCA Section 40-6-215.

Senate Bill No. 3118 by Senator Burchett.

Boats, Boating -- Requires internal combustion engines for boats be registered; sets fee for registration of vessel internal combustion engines. Amends TCA Title 69, Chapter 10.

Senate Bill No. 3119 by Senator Burchett.

Lottery -- Authorizes Heaska Ammuna Synagogue to conduct an annual event pursuant to Article XI, Section 5 of Constitution of Tennessee.

Senate Bill No. 3120 by Senator Burchett.

Food and Food Products -- Grants immunity from certain liability for restaurants and similar food service establishments for donations to certain bona fide nonprofit organizations except for gross negligence or intentional conduct. Amends TCA Title 53.

Senate Bill No. 3121 by Senator Burchett.

Consumer Protection -- Makes it an unfair or deceptive act or practice for a motor vehicle dealer to fail to advertise, post, display or disclose to a customer certain prices, charges, fees and services added or imposed by the dealer. Amends TCA Title 47, Chapter 18, Part 1.

Senate Bill No. 3122 by Senator Burchett.

Lottery -- Authorizes Arnstien Jewish Community Center to conduct an annual event pursuant to Article XI, Section 5 of Constitution of Tennessee.

Senate Bill No. 3123 by Senator Cooper.

Emergency Communications Districts -- Increases emergency telephone service charges board of district may levy for residence-classification users and business classification users. Amends TCA Title 7, Chapter 86.

Senate Bill No. 3124 by Senator Kurita.

Criminal Offenses -- Creates new Class E and D felony offense of assault on law enforcement officer or correctional employee or officer; and Class B felony offense of aggravated assault on law enforcement officer or correctional employee or officer. Amends TCA Title 39, Chapter 13, Part 1.

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Senate Bill No. 3125 by Senator Kurita.

Nurses, Nursing -- Restricts use of the term "nurse" to persons licensed as a registered nurse or a licensed practical nurse. Amends TCA Section 63-7-107 and Section 63-7-112.

Senate Bill No. 3126 by Senator McLeary.

Revenue -- Extends time in which Department of Revenue has to process claims for refunds from six to 12 months; extends time in which claimant of refund has to file suit after denial from six to 12 months. Amends TCA Title 67, Chapter 1, Part 18.

Senate Bill No. 3127 by Senator McLeary.

Safety -- Changes expiration date of emergency medical service licenses from December 31 of the year issued to June 30 of the year after issued, requires that all ambulances, including aircraft, be licensed by removing exception for individual aircraft, and removes \$25.00 reinstatement fee for expired licenses but allows the board to establish the fee by rule. Amends TCA Title 68, Chapter 140, Part 5.

Senate Bill No. 3128 by Senator Burchett.

Lottery -- Authorizes Temple Beth El to conduct an annual event pursuant to Article XI, Section 5 of Constitution of Tennessee.

Senate Bill No. 3129 by Senator Burchett.

Lottery -- Authorizes West High Athletics in Knoxville to conduct a raffle pursuant to Article XI, Section 5 of Constitution of Tennessee.

Senate Bill No. 3130 by Senator Burchett.

Real Property -- Requires owners of residential, commercial or industrial structures to obtain mold inspection prior to sale, exchange or transfer of such structure. Amends TCA Title 66 and Title 68.

Senate Bill No. 3131 by Senator Burchett.

Hospitals and Health Care Facilities -- Enacts the "Tennessee Health Care Decisions Act". Amends TCA Title 32, Chapter 11; Title 33; Title 34 and Title 68.

Senate Bill No. 3132 by Senator Harper.

Real Property -- Revises exemptions from public offering statements for group reservations made for 15 or more persons as a single transaction for hotel accommodations. Amends TCA Title 66, Chapter 32.

Senate Bill No. 3133 by Senator Ford.

Child Custody and Support -- Requires that child support guidelines treat equally all children of an obligor parent. Amends TCA Title 36.

Senate Bill No. 3134 by Senator Ford.

Taxes, Sales -- Reduces sales tax on food from 6 percent to 3 percent effective January 1, 2005. Amends TCA Title 3; Title 4; Title 5; Title 6; Title 7; Title 8; Title 9; Title 12; Title 16; Title 30; Title 36; Title 39; Title 40; Title 45; Title 47; Title 48; Title 55; Title 56; Title 57; Title 61; Title 62; Title 67; Title 68; Title 69; Title 70 and Title 71.

Senate Bill No. 3135 by Senator Henry.

Insurance, Health, Accident -- Requires health insurance policies to include coverage for hearing aids and for the evaluation and fitting of hearing aids. Amends TCA Title 56, Chapter 7, Part 26.

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Senate Bill No. 3136 by Senator Haynes.

Salaries and Benefits -- Raises governor's annual salary from \$85,000 to the salary of the chief justice of the supreme court. Amends TCA Section 8-1-102.

Senate Bill No. 3137 by Senators Burchett, Atchley, Beavers, Bryson, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder.

Naming and Designating -- Names new state veterans home in Knoxville in honor of Senator Ben Atchley.

Senate Bill No. 3138 by Senator McNally.

Insurance, Health, Accident -- Prevents health care insurers from denying payment of a claim if either the physician obtained prior authorization and the documentation supports the claim originally presented or if the health insurer informed the physician that prior authorization was not needed; prevents secondary health insurers from denying a claim if the physician obtained prior authorization from the primary payor or if the primary payor did not require prior authorization; imposes a civil penalty of \$1,000 per occurrence for violation of the section and \$10,000 per occurrence for the sixth and subsequent violations. Amends TCA Title 56.

Senate Bill No. 3139 by Senator McNally.

Tennessee Emergency Management Agency (TEMA) -- Enacts the "Mutual Aid and Emergency and Disaster Assistance Agreement Act of 2004". Amends TCA Title 7 and Title 58.

SENATE BILLS ON SECOND CONSIDERATION

The Speaker announced that the following bills passed second consideration and were referred to the appropriate committee:

Senate Bill No. 3094 referred to Committee on State and Local Government.

Senate Bill No. 3095 referred to Committee on State and Local Government.

Senate Bill No. 3096 referred to Committee on Judiciary.

Senate Bill No. 3097 referred to Committee on State and Local Government.

Senate Bill No. 3098 referred to Committee on Transportation.

Senate Bill No. 3099 referred to Committee on Education.

INTRODUCTION OF RESOLUTIONS

The Speaker announced that the following resolutions were filed for introduction. Pursuant to Rule 21, the resolutions lie over.

Senate Joint Resolution No. 712 by Senator Clabough.
Memorials, Death -- Avie Lee Caroline Owens Parton.

Senate Joint Resolution No. 713 by Senator Kurita.
Memorials, Heroism -- WAVES National Volunteer Unit 94.

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Senate Joint Resolution No. 714 by Senator Atchley.

Memorials, Personal Occasion -- Kathryn Blackwell, 95th birthday.

Senate Joint Resolution No. 715 by Senators Crutchfield and Haynes.

General Assembly, Confirmation of Appointment -- Stephanie R. Reeves, Claims Commission.

Senate Joint Resolution No. 716 by Senator Graves.

Memorials, Professional Achievement -- Flossie Tate, Tennessee's Outstanding Older Worker of the Year.

Senate Joint Resolution No. 717 by Senator Graves.

Memorials, Death -- Betty Dailey.

Senate Joint Resolution No. 718 by Senator Cooper.

Naming and Designating -- Designates McMinnville as "The Photography Capital of Tennessee".

Senate Resolution No. 114 by Senators Haynes and Person.

General Assembly, Review or Ratification of Rules -- Approves amendments to Tennessee rules of criminal procedure promulgated by supreme court.

Senate Resolution No. 115 by Senators Norris and Person.

General Assembly, Review or Ratification of Rules -- Approves amendments to Tennessee rules of civil procedure promulgated by supreme court.

Senate Resolution No. 116 by Senators Jackson and Person.

General Assembly, Review or Ratification of Rules -- Approves amendments to Tennessee rules of evidence promulgated by supreme court.

Senate Resolution No. 117 by Senator Person.

General Assembly, Review or Ratification of Rules -- Approves amendments to Tennessee rules of appellate procedure promulgated by supreme court.

RESOLUTIONS LYING OVER

House Joint Resolution No. 799 -- Memorials, Death -- Buck Graham.

The Speaker announced that he had referred House Joint Resolution No. 799 to Committee on Calendar.

House Joint Resolution No. 800 -- Memorials, Congratulations -- Laurel Chapter #22 (order of the Eastern Star), 100th anniversary.

The Speaker announced that he had referred House Joint Resolution No. 800 to Committee on Calendar.

House Joint Resolution No. 801 -- Memorials, Death -- Dr. John Orlando "J.O." Williams, Jr.

The Speaker announced that he had referred House Joint Resolution No. 801 to Committee on Calendar.

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House Joint Resolution No. 802 -- Memorials, Personal Achievement -- Michael Shea Fedders, Eagle Scout.

The Speaker announced that he had referred House Joint Resolution No. 802 to Committee on Calendar.

House Joint Resolution No. 803 -- Memorials, Personal Achievement -- Matthew Philip Kiessling, Eagle Scout.

The Speaker announced that he had referred House Joint Resolution No. 803 to Committee on Calendar.

House Joint Resolution No. 804 -- Memorials, Personal Achievement -- Nathan Richard Hill, Eagle Scout.

The Speaker announced that he had referred House Joint Resolution No. 804 to Committee on Calendar.

House Joint Resolution No. 805 -- Memorials, Personal Achievement -- William Robert Draper, Eagle Scout.

The Speaker announced that he had referred House Joint Resolution No. 805 to Committee on Calendar.

House Joint Resolution No. 806 -- Memorials, Personal Achievement -- Nicolas Alderman Haynes, Eagle Scout.

The Speaker announced that he had referred House Joint Resolution No. 806 to Committee on Calendar.

House Joint Resolution No. 807 -- Memorials, Personal Achievement -- William Cody Smith, Eagle Scout.

The Speaker announced that he had referred House Joint Resolution No. 807 to Committee on Calendar.

House Joint Resolution No. 808 -- Memorials, Personal Achievement -- Donald Ryan Gandee, Eagle Scout.

The Speaker announced that he had referred House Joint Resolution No. 808 to Committee on Calendar.

House Joint Resolution No. 809 -- Memorials, Personal Achievement -- David James Lepard, Eagle Scout.

The Speaker announced that he had referred House Joint Resolution No. 809 to Committee on Calendar.

House Joint Resolution No. 810 -- Memorials, Personal Achievement -- Luke Jerome Maddux, Eagle Scout.

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The Speaker announced that he had referred House Joint Resolution No. 810 to Committee on Calendar.

House Joint Resolution No. 811 -- Memorials, Personal Achievement -- Jeffery Paul Culley, Eagle Scout.

The Speaker announced that he had referred House Joint Resolution No. 811 to Committee on Calendar.

House Joint Resolution No. 812 -- Memorials, Recognition -- Daisy Hamblin.

The Speaker announced that he had referred House Joint Resolution No. 812 to Committee on Calendar.

House Joint Resolution No. 813 -- Memorials, Death -- Clarice Williams.

The Speaker announced that he had referred House Joint Resolution No. 813 to Committee on Calendar.

House Joint Resolution No. 814 -- Memorials, Recognition -- Tusculum College Professional Studies Programs, 20th anniversary.

The Speaker announced that he had referred House Joint Resolution No. 814 to Committee on Calendar.

House Joint Resolution No. 817 -- Memorials, Public Service -- Kingston Springs Fire Department.

The Speaker announced that he had referred House Joint Resolution No. 817 to Committee on Calendar.

House Joint Resolution No. 820 -- Memorials, Recognition -- Charlie Daniel.

The Speaker announced that he had referred House Joint Resolution No. 820 to Committee on Calendar.

Senate Joint Resolution No. 706 -- Memorials, Recognition -- Andrew Jackson School, 75th anniversary.

The Speaker announced that he had referred Senate Joint Resolution No. 706 to Committee on Calendar.

Senate Joint Resolution No. 707 -- Memorials, Recognition -- Floyd Shechter.

The Speaker announced that he had referred Senate Joint Resolution No. 707 to Committee on Calendar.

Senate Joint Resolution No. 708 -- Memorials, Professional Achievement -- Dr. Greg Patterson, 2003 National Distinguished Principal.

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The Speaker announced that he had referred Senate Joint Resolution No. 708 to Committee on Calendar.

Senate Joint Resolution No. 709 -- Memorials, Recognition -- R. Larry Lovelace.

The Speaker announced that he had referred Senate Joint Resolution No. 709 to Committee on Calendar.

Senate Joint Resolution No. 711 -- Memorials, Professional Achievement -- Dr. John B. O'Dell, 2003-04 Tennessee Superintendent of the Year.

The Speaker announced that he had referred Senate Joint Resolution No. 711 to Committee on Calendar.

CAPTION BILL REFERRALS

Pursuant to Rule 28, the following bills were recalled from the Clerk's desk and referred to committee:

Senate Bill No. 2158 referred to Committee on Transportation.

Senate Bill No. 2159 referred to Committee on Finance, Ways and Means.

NOTICE

Pursuant to Rule 44, notice was given that the following bill was returned from the House of Representatives amended. Under the rule, the bill lies over.

MESSAGE FROM THE HOUSE

January 29, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 2087, substituted for House Bill on same subject, amended, and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MOTION

Mr. Speaker Wilder moved that Rule 44 be suspended for the immediate consideration of **Senate Bill No. 2087**, out of order, which motion prevailed.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 2087 -- Somerville -- Subject to local approval, designates the board of aldermen by positions one through six and provides that the candidate receiving the highest number of votes in an election for each of the designated positions shall be elected. Amends Chapter 169 of the Private Acts of 1998.

HOUSE AMENDMENT NO. 1

AMEND by deleting the third sentence in its entirety from the amendatory language of subsection (B) of Section 1, and by substituting instead the following language:

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The elections shall be conducted in conformity with the general election laws of this state

Mr. Speaker Wilder moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 2087**, which motion prevailed by the following vote:

Ayes	32
Noes	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

A motion to reconsider was tabled.

CONSENT CALENDAR

House Joint Resolution No. 784 -- Memorials, Sports -- Germantown High School, 2003 TSSAA Class 5A Football Champions.

House Joint Resolution No. 785 -- Memorials, Recognition -- Dixie Greyhound Bus Lines Complex placement on the National and Tennessee Registers of Historic Places.

House Joint Resolution No. 786 -- Memorials, Death -- Henry Watson "Jack" Hall, Jr.

House Joint Resolution No. 793 -- Memorials, Congratulations -- Reyena Brown, First Place, Reading Rainbow's Young Writers and Illustrators contest.

House Joint Resolution No. 794 -- Memorials, Personal Occasion -- Florence Sloan, 100th birthday.

House Joint Resolution No. 795 -- Memorials, Death -- SFC Gregory Hicks.

House Joint Resolution No. 796 -- Memorials, Congratulations -- First National Bank of LaFollette, 100th anniversary.

House Joint Resolution No. 798 -- Memorials, Death -- Staff Sgt. Joseph P. Bellavia.

Senate Joint Resolution No. 700 -- Memorials, Death -- Jack D. Tapp.

Senate Joint Resolution No. 701 -- Memorials, Retirement -- Reverend Herbert H. Wright.

Senate Joint Resolution No. 703 -- Memorials, Sports -- Boyd-Buchanan High School, 2003 TSSAA Class A Football State Championship.

Senate Joint Resolution No. 704 -- Memorials, Recognition -- Larry Davis, 2003 South Lawrence Citizen of the Year.

Senator Crowe moved that all Senate Joint Resolutions be adopted; and all House Joint Resolutions be concurred in, which motion prevailed by the following vote:

Ayes	33
Noes	0

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Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--33.

A motion to reconsider was tabled.

MOTION

Senator Atchley moved that the rules be suspended for the immediate consideration of **House Joint Resolution No. 820**, out of order, which motion prevailed.

RESOLUTION LYING OVER

House Joint Resolution No. 820 -- Memorials, Recognition -- Charlie Daniel.

On motion of Senator Atchley, the rules were suspended for the immediate consideration of the resolution.

On motion, **House Joint Resolution No. 820** was concurred in by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

RECESS

Senator Crutchfield moved the Senate recess and repair to the House Chamber to meet the House of Representatives in Joint Convention for the purpose of hearing the message of the Governor, and further moved that at the conclusion of the Joint Convention that the Senate adjourn until 3:00 p.m., Wednesday, February 4, 2004, which motion prevailed.

**IN JOINT CONVENTION
MESSAGE OF GOVERNOR**

CALL TO ORDER

Mr. President Naifeh called the Joint Convention to order pursuant to **Senate Joint Resolution No. 710**.

ROLL CALL

Mr. President Naifeh declared that a quorum was present.

On motion of Senator Crutchfield, the roll call of the Senate was dispensed with.

On motion of Representative McMillan, the roll call of the House was dispensed with.

Mr. Russell Humphrey, Chief Clerk of the Senate, read **Senate Joint Resolution No. 710**, authorizing the Joint Convention to hear the Message of Governor Phil Bredesen.

MOTION

Representative McMillan moved that Mr. President Naifeh appoint a committee composed of six members from the Senate and six members from the House of Representatives to notify the Governor that the Joint Convention was in session and awaiting his arrival, which motion prevailed.

APPOINTMENT OF SELECT COMMITTEE

Mr. President Naifeh appointed a committee composed of Senators Clabough, Harper, Kilby, McLeary, McNally and Person; and Representatives Lois DeBerry, McMillan, Rinks, Hargett, Sargent and Walker. Representative DeBerry served as Chairperson of this committee.

RECESS

On motion, the Joint Convention recessed pending the arrival of the Governor.

CALL TO ORDER

Mr. President Naifeh called the Joint Convention to order.

Mr. President Naifeh declared a quorum was present.

On motion, the roll calls of the Senate and House of Representatives were dispensed with.

The Honorable Phil Bredesen, Governor, appeared at the Bar of the House Chamber and was escorted to the Speaker's Podium.

Mr. Speaker Naifeh presented the Honorable Phil Bredesen, who delivered the following address:

**STATE OF THE STATE ADDRESS
"EDUCATION: OUR FIRST PRIORITY"**

**GOVERNOR PHILIP N. BREDESEN
FEBRUARY 2, 2004**

Governor Wilder, Speaker Naifeh, Members of the 103rd General Assembly, Friends, Guests, and my fellow Tennesseans. I stand before you tonight for my second time as Governor to report on the State of our State and to fulfill my obligation to recommend a budget prepared according to the provisions of our Constitution.

The dual purpose of this occasion, reporting on the State of our State and submitting a budget, is fitting. The State of our State in these times is deeply intertwined with how well we manage our fiscal affairs. The State of our State in the years ahead depends on the choices we make now about how to use the resources we have available to us.

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Budgets reflect priorities. This year, let's redouble our efforts to make education the fundamental priority. Tonight, I am proposing not only that we spend new funds to support education, but that we move money from other areas as well. I'm proposing that we begin the process of rebalancing our commitments, of re-establishing the education of our children as our highest calling.

Fiscal soundness is the foundation, and I can report to you tonight that, together, we are laying that foundation. Through a genuinely bipartisan effort, I am proud to say we will finish this year in the black, with no new taxes. The new budget I am submitting to you is, once again, balanced. And once again, it requires no new taxes.

This time last year, I asked you to help me apply the common-sense principles of a family budget to state government. To figure out how much money we had coming in, and then plan to spend that much and no more. We made some painful decisions. We embraced the middle ground of shared sacrifice.

Tonight, I'm asking you to continue this common-sense approach, our family budget approach. We've succeeded in getting control of how much we spend. Now, we need to get control of what we spend it on. We're working hard. Now, let's work smart.

Let me tell you what I love about our state. I love Tennessee's vision and its vigor. Tennessee has been a wellspring of ideas and energy throughout our history. Tennessee was the birthplace of so much of America's exploration and expansion. A Tennessee governor, James K. Polk, was the visionary of manifest destiny; the ideal of an America that stretched from "sea to shining sea;" a Tennessee vision that became the America we know.

We have been the fount of so much of what is seminal in American music and culture. We have sent far more than our share of great men and women to the national stage. And we have sent far more than our share of "Volunteers" to protect our freedom and liberties abroad. It's appropriate tonight to recognize those Tennesseans who have contributed their service, and sacrificed their lives, during the past year. For all they have done, we are grateful.

One thing is certain in Tennessee: We have always charted our own course. I believe with all my heart that the wisest course of all is to educate our children. But we have to step up here. Everyone in public life is for education; I've never met a candidate who was against education. The real test comes when one is asked to step up and put resources and political capital behind the rhetoric. I am confident that, together, we are going to pass the test.

Our new budget reflects that belief. This budget contains \$174 million in new money for K-12 education. That's one in four available new dollars. The investments that I'm asking in education support a four-part strategy for the upcoming year.

First: To fully fund the Basic Education Program. Second: To place a focus on recruiting and retaining the best possible people to teach in our classrooms. Third: To begin the process of education long before our students show up for their first day in the classroom. And fourth: To invest in technology. Let me take them one by one.

The BEP: I'm asking you once again to fully fund it as we did last year. That's basic.

Recruiting and retaining the best people in our classrooms: The reality is, we have a problem with teacher pay in Tennessee that we need to solve. Tonight, I'm asking you for an investment of \$90 million to help make our teacher pay more competitive with our surrounding states.

Of this, \$35 million will go to reduce the disparity in teacher pay between richer and poorer districts. Together with last year's "down payment", and changes we are proposing in the structure of the Basic Education Program, this will meet the requirements of our Supreme Court. It will place us firmly on the path of ensuring that all children in Tennessee, no matter where they live, have access to the education to which they are entitled.

I'm asking you additionally for \$55 million to help fund across-the-board pay raises for every teacher in Tennessee. This is part of a broader plan of pay raises for all our employees that I will discuss later tonight. Certainly, I'm placing a lot of emphasis on teacher pay. But if you accept these recommendations, we will reach a milestone. This year, our average teacher salary is below the regional average. Next year, the average salary for Tennessee's teachers will surpass the Southeastern average.

Do I think this is the entire answer? Of course not. But I do know that attracting and retaining the best teachers in Tennessee classrooms is a giant step in the right direction. Raising teacher pay is critical. But I'm asking you also for a small amount of seed money to begin a new program I call "Teach Tennessee." Teach Tennessee will provide mid-career professionals with the opportunity to serve as teachers, especially in our most underserved rural and urban schools.

Tennessee is the Volunteer State. And I have met many Tennesseans who might be willing to spend five or 10 years of their career working as teachers with our children and teenagers. We need to recruit them. We need to develop alternative certifications for them. And most of all, we need to get them into the classrooms. Funding the BEP, and getting great teachers to come to and stay in our classrooms, is critical.

The third element of this strategy is important, too: Working to help our youngest children arrive in their kindergarten classroom on the first day of school prepared to take advantage of what lies ahead. Our lottery is off to an excellent start. With this in mind, I'm asking for authorization to add to our pre-K program if the lottery should generate excess funds this year beyond what is needed for higher education scholarships.

I'm also asking for seed money to expand the Imagination Library. This is the innovative program started by our own Dolly Parton to place books, one book a month, in the hands of children from birth until they begin school. Books in the home are one of the sign posts of a child who will do well in school. And perhaps the greatest contribution we can make to a child is to help that child develop a true, lifelong love for reading.

As the fourth element of this strategy, I am asking for a modest investment to allow us to begin developing real state-of-the-art computer technology in the classroom. No Child Left Behind has underlined for us that we have schools and classrooms with difficult challenges. Over the past decade, modern business has used technology to transform how it performs. We should do no less for our children.

In addition to focusing on K-12, let me turn now to higher education. In this tight year, I have had to ask for some modest cuts in the operating budgets of our colleges and universities. Far less than last year, but cuts nonetheless. But we have more than offset these with recommendations for major capital investments on our campuses.

First: This budget proposes \$77 million for badly needed capital maintenance. These items have been too long delayed already. Second: I am proposing to you a new program of public-private partnership. I have placed an additional \$94 million of new construction money for higher education in this budget, which I propose to match with locally-raised money, two for one.

For example, the University of Tennessee needs to rebuild the aging Glocker Hall at a total cost of \$30 million. We're saying to them, "If you raise \$10 million of this from private sources, then the state will provide the remaining \$20 million." This partnership, if our college presidents take advantage of it, will allow us this year to fund the 11 highest-priority building projects across our higher-education system, from Northeast State to Molloy State to Dyersburg State. If this "challenge" is successful, we can extend it next year.

Last year, as we worked to get our expenditures under control, I had to ask our employees to forego raises. That was particularly painful for me, because I know the costs of groceries and gas and healthcare don't sit still. And I place a high value on treating our employees fairly. This is still a tight year, and we're cutting budgets in various areas.

But I am asking you to approve a total of three percent for our employees: Two percent as a regular raise on July 1; and an additional one percent as a one-time bonus out of the surplus we have been able to accumulate this year. This will apply to all employees, state government, higher education and teachers alike. Our employees are our greatest resource in state government. They've earned this increase. We hope to do more in the future.

Because of the performance of the stock market, our pension plan requires the investment of an additional \$73 million annually to maintain its actuarial soundness. And we have incorporated that increase into this budget. I know one Legislator who would be pleased about that. John Bragg served in this House for more than 30 years. He passed away this weekend after devoting a lifetime to public service and to the principles of fiscal responsibility. I am proud to have known him. And I know that he will be missed.

In addition to all our other commitments, I am proposing to you investments in job training and in economic development.

We are proposing that \$8 million of this year's surplus be added to the TIIPS fund for industrial infrastructure investment; that \$11 million be allocated to job training, primarily for two specific industrial projects with Nissan and Toyota; and for \$10 million to support the truly visionary biotech initiative in Memphis.

For me, one of last year's most personally painful cuts was in the land acquisition fund. While I was not able this year to fully restore these funds, I am proposing to allocate \$10 million of this year's surplus as a one-time contribution to begin making that fund whole once again.

If you've been keeping track as I have gone along, you no doubt realize that the investments in human capital that I am proposing total more than the new revenues that are available to our state. In order for us to make these common-sense investments we also need to make cuts in other areas, and this budget reflects those as well. We have asked most departments of state government to cut their budgets by five percent. And they have responded constructively and successfully.

As those in this Chamber know, all of our efforts for education will be for nothing if we don't succeed in controlling the growth in spending of TennCare. Left alone, TennCare will itself consume

virtually all of the new funds we expect from our growth, and will starve and kill our commitment to education. That cannot happen.

I will be making a full report on TennCare and describing a strategy for its long-term stability in this Chamber in a little over two weeks. The budget you are being presented, however, incorporates some immediate reductions from the requested TennCare budget totaling \$112 million, or five percent of the total TennCare state dollars. Combined with a greatly enhanced initiative to stamp out fraud and abuse, this will help us transition to the longer-term solution.

Before we close, let's step back for a moment. We are here tonight to begin the process of another budget, another session of the Legislature. Beyond these immediate tasks, we are also here to consider the State of our State, to reflect on Tennessee's future, and to reflect on our responsibilities to chart that future.

When finances are tight, and they certainly continue to be, it is all too human to fall into the trap of lamenting all the things we can't do, rather than focusing on those things that are within our power to change. As we forge ahead, we need to keep our balance. Good times shouldn't make us careless. Tough times shouldn't make us afraid.

I spoke at the outset about the vision and energy of Tennessee, and about our historical ability to chart our own course.

Tennessee has always looked to the frontier. That frontier changes. It's no longer the prairies and canyons and mountains of the West. But the frontier is still there. It's still about realizing the dream of America. It's in pioneering the highest-quality education for every child. It's in fighting to bring every family into the mainstream of our wonderful country. It's in believing that we can truly be "One nation, under God."

I love serving as your Governor, and hope to do so for years to come. We have places to go, and I'm going to challenge myself in the years ahead, and I'm going to challenge you, to put aside the ordinary and the timid; to rekindle that Tennessee spirit to the new tasks at hand; and to once again lift our eyes to the far blue mountains and supply the vision and courage to go there.

Thank you and Godspeed.

DISSOLUTION OF JOINT CONVENTION

Mr. President Wilder declared that the purpose for which this Joint Convention was called having been accomplished, the Joint Convention stood dissolved.

MOTION

On motion of Senator Miller, his name was added as prime sponsor of **Senate Bill No. 3097**.

On motion of Senator Cooper, his name was added as sponsor of **Senate Bill No. 2456**.

On motion of Senator Crowe, his name was added as sponsor of **Senate Bills Nos. 2626, 2645, 2646, 2648, 2649, 2797, 2866, 3042 and 3060**.

MONDAY, FEBRUARY 2, 2004 -- 55TH LEGISLATIVE DAY

On motion of Senator Ramsey, his name was added as sponsor of **Senate Bill No. 2797**.

On motion of Senator Haynes, his name was added as sponsor of **Senate Joint Resolution No. 715**.

On motion of Senator Kilby, his name was added as sponsor of **Senate Bill No. 2103**.

On motion of Senator Person, his name was added as prime sponsor of **House Joint Resolution No. 784**.

On motion, all Senators' names were added as sponsors of **House Joint Resolutions Nos. 795 and 820**.

On motion of Senators Kyle, Norris, Dixon and Harper, their names were added as sponsors of **House Joint Resolution No. 784**.

On motion of Senator Henry, his name was added as sponsor of **Senate Bill No. 2217**.

On motion of Senators McNally and Williams, their names were added as sponsors of **House Joint Resolution No. 796**.

On motion of Senator Crutchfield, his name was added as sponsor of **Senate Joint Resolution No. 703**.

On motion of Senator Graves, her name was added as prime sponsor of **House Joint Resolutions Nos. 794 and 798**.

On motion of Senators Herron and Beavers, their names were added as sponsors of **House Joint Resolution No. 798**.

ENGROSSED BILLS

February 2, 2004

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Joint Resolutions Nos. 700, 701, 703 and 704; and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

MESSAGE FROM THE HOUSE

February 2, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 819 and 825, adopted, for the Senate's action.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

February 2, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 2440, 2441 and 2442; passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

February 2, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 2047, substituted for House Bill on same subject and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

ENROLLED BILLS

February 2, 2004

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Bill No. 2087, and find same correctly enrolled and ready for the signatures of the Speakers.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

MESSAGE FROM THE HOUSE

February 3, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolution No. 820, for the signature of the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

SIGNED

February 2, 2004

The Speaker announced that he had signed the following: Senate Bill No. 2087.

SIGNED

February 3, 2004

The Speaker announced that he had signed the following: House Joint Resolution No. 820.

MESSAGE FROM THE GOVERNOR

February 2, 2004

MR. SPEAKER: I am directed by the Governor to return herewith: Senate Joint Resolution No. 689, with his approval.

ROBERT E. COOPER, JR.,
Counsel to the Governor.

MESSAGE FROM THE GOVERNOR

February 3, 2004

MR. SPEAKER: I am directed by the Governor to return herewith: Senate Joint Resolutions Nos. 673, 674, 675, 676, 677, 678, 679, 680, 681, 688, 691, 692, 696 and 705; with his approval.

ROBERT E. COOPER, JR.,
Counsel to the Governor.

**REPORT OF COMMITTEE ON CALENDAR
CONSENT CALENDAR #1**

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Wednesday, February 4, 2004: House Joint Resolutions Nos. 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 817 and 820; and Senate Joint Resolutions Nos. 706, 707, 708, 709 and 711.

This the 2nd day of February, 2004.
CROWE, Chairperson.

**REPORT OF COMMITTEE ON CALENDAR
CONSENT CALENDAR #2**

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Wednesday, February 4, 2004: Senate Joint Resolution No. 683 and Senate Bill No. 2095.

This the 2nd day of February, 2004.
CROWE, Chairperson.

REPORT OF COMMITTEE ON CALENDAR

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Wednesday, February 4, 2004: Senate Joint Resolution No. 699; and Senate Bills Nos. 2097, 2098 and 2504.

This the 2nd day of February, 2004.
CROWE, Chairperson.

**REPORT OF COMMITTEE ON CALENDAR
LOCAL BILL
CONSENT CALENDAR**

Pursuant to Rule 26, the following bills have been set on the Consent Calendar for Wednesday, February 4, 2004: Senate Bills Nos. 2075 and 2086.

MONDAY, FEBRUARY 2, 2004 -- 55TH LEGISLATIVE DAY

ADJOURNMENT

Pursuant to Senator Crutchfield's motion, the Senate adjourned until 3:00 p.m., Wednesday, February 4, 2004.